IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 27372 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE MD SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SADAF M PATHAN - Petitioner(s)
Versus
THE STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR PM BHATT for Petitioner(s) : 1,
Mr LR Pujari, Asstt/GOVERNMENT PLEADER for Respondent(s) :

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CORAM : HONOURABLE MR.JUSTICE MD SHAH

Date : 07/12/2007

ORAL JUDGMENT

1. By way of this petition, the present petitioner has challenged the order made in the appeal preferred by

her, refusing to entertain it on the ground of limitation. According to the petitioner, she had purchased the immovable property by a sale deed for an amount of Rs.2 lakhs. The said transaction was permitted by the Charity Commissioner (Joint), by order dated 31.8.1996. The Dy.Collector, Stamp Duty Valuation Organization, Ahmedabad, after issuing notice under section 32 C of the Bombay Stamp Act, 1958, after a lapse of 7 years, redetermined the price of the said property as Rs.15 lakhs and had directed her to pay deficit stamp duty of Rs. 50,000/- including fine of Rs.250/-. The petitioner had sought to prefer an appeal therefrom after depositing 25% of the deficit amount. However, that application under the provisions of section 32 B of the Act was not entertained only on the ground of delay.

2. Rule. Learned AGP waives service of notice of Rule for the respondents.

3. Learned AGP Mr LR Pujari appearing for the respondents fairly conceded that, after accepting the deposit for the purpose of making a reference, so-called appeal of the petitioner was required to be considered and decided on merits by appropriate authority in accordance with law. However, since section 32 B was

deleted by recent amendment of the Bombay Stamp Act, 1958, the respondent would now decide the appeal of the petitioner on merits and in accordance with law, by exercising powers under section 53 of the said Act.

4. Accordingly, by consent, the petition is partly allowed with the direction that the respondent concerned shall entertain the application of the petitioner made in the form of an appeal to challenge the impugned order passed by the Deputy Collector, Stamp Duty Valuation, Ahmedabad and decide it on merits, in accordance with law, after affording to the petitioner an opportunity of being heard. In view of long lapse of time during the proceedings as aforesaid, the authority concerned shall conduct and conclude the proceedings in terms of this order as expeditiously as possible within a period of three months. Rule is made absolute to the aforesaid extent.

[M.D. SHAH, J.]

msp